

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION

VICTORIA C. PEREZ
Plaintiffs

VS.

DONNA INDEPENDENT SCHOOL DISTRICT
Defendant

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CIVIL ACTION NO. 7:15-CV-73
(JURY REQUESTED)

**DEFENDANT'S DONNA INDEPENDENT SCHOOL DISTRICT
ANSWER TO PLAINTIFF'S SECOND AMENDED COMPLAINT**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Defendant DONNA INDEPENDENT SCHOOL DISTRICT, Defendant in the above-styled and numbered cause, and files this its Answer to Plaintiff's Second Amended Complaint and would respectfully show the Court the following:

I.

DEFENDANT'S ANSWER TO PLAINTIFF'S SECOND AMENDED COMPLAINT

1. Defendant denies the allegations in paragraph 1 of Plaintiff's Second Amended Complaint.
2. Defendant admits the allegations in paragraph 2.1 of Plaintiff's Second Amended Complaint.
3. Defendant admits it is a political subdivision of the State of Texas and that it has appeared in this cause.
4. Defendant admits the allegations contained in paragraph 3.1 of Plaintiff's Second Amended Complaint with respect to the U.S. District Court for the Southern District of Texas, McAllen Division.
5. Defendant denies the allegations contained in paragraph 4.1 of Plaintiff's Second Amended Complaint.
6. Defendant denies the allegations contained in paragraph 4.2 of Plaintiff's Second

Amended Complaint.

7. Defendant lacks knowledge or information sufficient to form a belief about the allegations in paragraph 4.3 of Plaintiff's Second Amended Complaint.
8. Defendant denies the allegations in paragraph 4.4 of Plaintiff's Second Amended Complaint.
9. Defendant admits the allegations in paragraph 4.5 of Plaintiff's Second Amended Complaint.
10. Defendant denies the allegations in paragraph 4.6 of Plaintiff's Second Amended Complaint.
11. Defendant denies the allegations in paragraph 4.7 of Plaintiff's Second Amended Complaint.
12. Defendant denies the allegations in paragraph 4.8 of Plaintiff's Second Amended Complaint.
13. Defendant denies the allegations in paragraph 4.9 of Plaintiff's Second Amended Complaint.
14. Defendant denies the allegations in paragraph 5.1 of Plaintiff's Second Amended Complaint.
15. Defendant admits the allegations in paragraph 5.2 of Plaintiff's Second Amended Complaint.
16. Defendant denies the allegations in paragraph 5.3 of Plaintiff's Second Amended Complaint.
17. Defendant denies the allegations in paragraph 5.4 of Plaintiff's Second Amended Complaint.
18. Defendant denies the allegations in paragraph 5.5 of Plaintiff's Second Amended Complaint.
19. Defendant denies the allegations in paragraph 6.1 of Plaintiff's Second Amended Complaint.
20. Defendant denies that Plaintiff is entitled to the relief requested in paragraph 6.2 of Plaintiff's Second Amended Complaint.
21. Defendant denies the allegations in paragraph 6.3 of Plaintiff's Second Amended Complaint.
22. Defendant admits the assertion in paragraph 6.4 of Plaintiff's Second Amended

Complaint.

23. Defendant denies Plaintiff is entitled to the relief requested in the Prayer of Plaintiff's Second Amended Complaint.

II.
AFFIRMATIVE DEFENSES

24. Defendant asserts that in the event it is found to be a prevailing party, it is entitled to reasonable attorney's fees at the discretion of the court.
25. Defendant asserts it is entitled to sovereign immunity from the claims raised by Plaintiff and that such immunity has not been waived.
26. Defendant would affirmatively assert that Plaintiff cannot recover in her claims against Defendant because no policy, custom or practice having a causal relation to the alleged conduct complained of by Plaintiff has been adopted or promulgated by Defendant.
27. Defendant asserts that it had no knowledge of the precise instance of any abuse giving rise to Plaintiff's alleged claims and had no actual knowledge of any substantial risk that an abuse would occur.
28. Defendant asserts that it at no time acted with deliberate indifference as alleged by Plaintiff.

VIII.
JURY DEMAND

29. Defendant respectfully requests a trial by jury.

IV.
PRAYER

WHEREFORE, PREMISES CONSIDERED, Defendant DONNA INDEPENDENT SCHOOL DISTRICT prays that Plaintiff take nothing from this suit, that it be dismissed from this cause of action, that it recover its courts costs and attorneys' fees associated with prosecuting this matter, and that the court grant Defendant such other and further relief to which it may be entitled to, either at law or in equity.

Signed on April 20, 2015.

Respectfully submitted,

ESPARZA & GARZA, L.L.P.

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By: /s/ Eduardo G Garza

Eduardo G Garza

State Bar No. 00796609

USDC Adm. No. 20916

Roman "Dino" Esparza

State Bar No. 00795337

USDC Adm. No. 22703

ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

I hereby certify that on April 20, 2015, pursuant to the Federal Rules of Civil Procedure, a true and correct copy of the above and foregoing document was served on each party to this action by Defendant's submission of this document to the U.S. District Court electronically to the DCECF system.

/s/ Eduardo G Garza

Eduardo G Garza